

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Ridgeview Manor Nursing Facility,)	
)	Civil Action No. 3:07-861-JFA
)	
Plaintiff.)	
)	
v.)	DEFENDANTS' ANSWER
)	TO VERIFIED COMPLAINT
Michael O. Leavitt, in his official capacity as)	FOR INJUNCTIVE RELIEF
Secretary of the United States Department of)	AND MANDAMUS
Health and Human Services,)	
)	
Defendant.)	
_____)	

The Defendants, Michael O. Leavitt and Leslie V. Norwalk, the Secretary of the United States Department of Health and Human Services and Acting Administrator of the Centers for Medicare & Medicaid Services, hereby answers the Complaint in this matter. In answering the specific numbered paragraphs, the Defendant United States answers and shows, as follows:

1. This paragraph is plaintiff's characterization of the case to which no response is required; to the extent an answer is deemed required, deny.

2. Deny first sentence, except to admit that the survey determined that there was an instance of actual harm to a resident and that there was not a finding of "immediate jeopardy." Deny second sentence, except to admit that Ridgeview entered into a management agreement with Sterling. Deny third sentence. Admit fourth sentence.

3. Admit first sentence. Deny second sentence.

4. Defendant is without knowledge or information sufficient to form a belief as to the allegations in paragraph 4 and denies the same.

5. Defendant is without knowledge or information sufficient to form a belief as to the allegations in paragraph 5 and denies the same, except to admit that the facility had 26 Medicaid beneficiaries at the time this action was filed. Deny last sentence.

6. Deny, except to admit that Plaintiff's obtained a Temporary Restraining Order and a Preliminary Injunction in this case.

7. Defendants admit first the sentence and deny the second sentence.

8. Defendants admit the allegations contained in this paragraph.

9. Defendants admit first two sentences and the fourth sentence. Defendant is without knowledge or information sufficient to form a belief as to the allegations in the third sentence and denies the same.

10. Defendants admit the allegations contained in this paragraph.

11. Defendants admit the allegations contained in this paragraph.

12. Defendants admit the allegations contained in this paragraph.

13. Defendants admit the allegations contained in this paragraph.

14. Defendants admit the allegations contained in this paragraph, except that Mr. Kerr is not longer the Director of SCDHHS..

15. Deny except to admit that the action involves both the Medicare and Medicaid provisions of the Social Security Act.

16. Deny.

17. Deny.

18. The Secretary hereby incorporates his responses to paragraphs 1 - 17.

19. Defendants admit the allegations contained in this paragraph.

20. Defendants admit the allegations contained in this paragraph.

21. Defendants admit the allegations contained in this paragraph.

22. Defendants admit the allegations contained in this paragraph.

23. Defendants admit the allegations contained in this paragraph.

24. Defendants admit the allegations contained in this paragraph.

25. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

26. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

27. Defendants admit the allegations contained in this paragraph.

28. Defendants admit the allegations contained in this paragraph.

29. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

30. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

31. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

32. Deny.

33. Defendants admit the allegations contained in this paragraph.

34. Admit first sentence. The second sentence contains plaintiff's characterization of the law to which no response is required, to the extent an answer is deemed required, the defendants deny the same.

35. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

36. Admit.

37. This paragraph is plaintiff's characterization of the law to which no response is required; to the extent an answer is deemed required, the defendants deny the same.

38. The Defendants hereby incorporates their responses to paragraphs 1 - 37.

39. Admit first sentence. Deny second sentence except to admit that the 2567, along with a letter with recommended remedies, was sent via Federal Express on March 5, 2007, which contained 30 separate violations of the long-term care regulations at the scope and severity listed by plaintiff.

40. Admit.

41. Admit first sentence. Deny second sentence.

42. Admit.

43. Admit.

44. Deny, except to admit that Ridgeview appealed the findings of noncompliance that resulted in the imposition of a remedy.

45. Deny, except to admit that due to the termination of its Medicare and Medicaid provider agreements, Ridgeview would not be reimbursed by these programs for the care it provided to residents for services performed more than 30 days after the effect of the 46. Deny.

47. Deny.

48. Deny.

49. Deny.

50. Deny.

51. Deny.

52. Deny.

53. Deny.

54. The Secretary hereby incorporates his responses to paragraphs 1 - 53.

55. Deny.

56. Deny, except to admit that continuity of healthcare is important, but must be balanced against leaving individuals in a facility that is unable to remain in substantial compliance.

57. Deny.

58. Deny.

59. Deny.

60. Deny.

61. Deny.

62. Deny.

63. Deny.

64. The Secretary hereby incorporates his responses to paragraphs 1 - 63.

65. Deny.

66. Deny.

The remainder of the Complaint contains plaintiffs' prayer for relief and not averments of fact to which an answer is required, but insofar as an answer may be deemed required, deny.

The defendant specifically denies all of the allegations of the complaint not hereinbefore otherwise answered.

Respectfully submitted,

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